

## **SUBCOMMITTEE NO. 3**

## **Agenda**

**Chair, Senator Denise Moreno Ducheny**  
**Senator Dave Cox**  
**Senator Wesley Chesbro**



### **Agenda – Part “B”**

**Thursday, April 27, 2006**  
**10 a.m. or upon adjournment of session**  
**John L. Burton Hearing Room (4203)**  
**Consultant, Brian Annis**

### **Labor Agency and Select Departments**

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## Department Budgets Proposed for Consent

### 7120 California Workforce Investment Board

The federal Workforce Investment Act (Act) of 1998 established new requirements for employment and training programs for adults, youth, and dislocated workers. Pursuant to the provisions of the Act, the Governor established a state Workforce Investment Board comprised of the Governor; two members of the Senate, appointed by the President pro Tempore; two members of the Assembly, appointed by the Speaker; and representatives of business, labor organizations, community-based organizations, schools and colleges, state agencies, and local governments, appointed by the Governor. The Board is tasked with developing workforce development programs into an integrated workforce investment system that can better respond to the employment, training, and education needs of its customers.

**Proposed Budget:** The Governor proposes \$4.8 million (federal funds and reimbursements) and 20.9 positions for the Board's budget – a decrease of \$392,000 from adjusted current year expenditures. The decrease is primarily due to a one-time federal grant of \$445,000, which is included in 2005-06 expenditures, but is not assumed for 2006-07. The Administration did not submit any Budget Change Proposals for the Board.

**Staff Comment:** No issues have been raised with the Board's proposed budget.

**Staff Recommendation:** Approve the Board's Budget.

**0559 Secretary for Labor and Workforce Development**

The Labor and Workforce Development Agency (Agency) brings together the departments, boards, and commissions, which train, protect and provide benefits to employees. The Agency is primarily responsible for three different types of functions, labor law enforcement, workforce development, and benefit payment and adjudication. The Labor and Workforce Development Agency includes the Department of Industrial Relations, the Employment Development Department, the Agricultural Labor Relations Board (which is heard in Subcommittee #2) and the Workforce Investment Board. The Agency provides policy and enforcement coordination of California's labor and employment programs and policy and budget direction for the departments and boards.

**Proposed Budget:** The Governor proposes \$2.2 million (reimbursements from departments, and penalty assessments) and 14.2 positions for the Secretary's budget – a decrease of \$16,000 from adjusted current-year expenditures. The Agency also administratively established a new position and downgraded another position in 2005-06 and requests to make that change permanent. These position changes had a net zero affect on expenditures because two high-level part-time classifications were eliminated and two lower-level full-time classifications were established.

(see next page for issue)

**Issue 1: Employer / Employee Education (BCP #1)**

**Description:** The Administration requests an ongoing augmentation of \$15,000 (Labor and Workforce Development Fund) for the purpose of funding employer/employee education efforts. This is a new expenditure for the Agency that relates to two pieces of legislation passed in 2003 and 2004.

**Detail / Background:** The expenditure authority requested in this BCP relates to the following two bills:

- **Assembly Bill (AB) 276 (Chapter 329, Statutes of 2003, Koretz):** This bill increased penalties for violations of specified provisions of the Labor Code and provides that 12.5 percent of the employer penalties for failure to pay wages or unlawfully withholding wages shall be placed in a fund within the Agency to be used to educate employers about state labor laws. The remainder of the penalty is to be deposited in the General Fund. The analysis for AB 276 estimated annual total penalty revenue of \$800,000, with about \$100,000 of that available to the Agency for education efforts.
- **Senate Bill (SB) 1809 (Chapter 221, Statutes of 2004, Dunn):** This bill allows employees to bring civil actions to recover civil penalties provided for violations of the Labor Code. These provisions are called the Private Attorneys General Act of 2004. The statute divides the penalties collected between the Agency (75 percent) and the aggrieved employee (25 percent). The Agency share is specified for education of employers and employees about their rights and responsibilities under the Labor Code. No estimate of civil penalty revenue was included in the analyses of SB 1809.

**Staff Comment:** The BCP indicates that no funds associated with AB 276 have materialized; however, there are several cases pending which may provide a “minimal” amount of funding to the Labor and Workforce Development Fund. The amount of penalties collected pursuant to SB 1809 was \$21,000 in 2004-05. A penalty assessment of \$75,000 was recently collected and Agency now anticipates revenues of \$97,000 in 2005-06. Given that the Agency has a revised fund condition statement that suggests a fund balance of \$118,000 at the end of 2005-06, and the analyses of AB 276 and SB 1809 anticipated revenue of a least \$100,000 annually, the Subcommittee may want to increase the appropriation for education efforts.

**Questions:**

1. Agency, please describe the proposal.
2. Agency, please provide an updated revenue report and estimate.
3. LAO, please comment on this request and comment on the maximum expenditure out of this fund that would be fiscally prudent in 2006-07.

**Recommendation:** Augment this item from \$15,000 to \$100,000 on a one-time basis. Revenue received to date is sufficient to fund activity at the \$100,000 level and making the funding one-time will allow the Agency to determine whether the 2005-06 level of revenue is sustainable.

## 7100      **Employment Development Department**

The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Paid Family Leave Program, and assists job seekers by providing employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

The January Governor's Budget proposed \$10.8 billion (\$24.7 million General Fund), a decrease of \$307 million (2.8 percent) from the revised current-year budget. The change is primarily driven by a projected decrease in benefit claims due to improved economic conditions.

<b>Fund Source</b>				
<b>Expenditure by Program</b>				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Employment & Employment Services	\$206,209	\$210,397	\$4,188	2.0
Tax Collections & Benefit Payment	10,302,676	10,011,740	-290,936	-2.8
Unemployment Insurance Appeals Board	75,478	74,683	-795	-1.1
Administration	52,892	54,747	1,855	3.5
Distributed Administration	(51,194)	(51,194)	0	0.0
Employment Training Panel	37,810	40,345	2,535	6.7
Workforce Investment Act	463,541	440,412	-23,129	-5.0
National Emergency Grant Program	45,000	45,000	0	0.0
Nurse Education Initiative	750	0	-750	-100.0
<b>Total</b>	<b>\$11,133,162</b>	<b>\$10,826,130</b>	<b>-\$307,032</b>	<b>-2.8</b>

(see next page for issues)

## Issues for Discussion / Vote

### Issue 1: Program Benefit Adjustments (October 2005 Revise)

**Description:** The EDD budget reflects adjusted benefit expenditures in the current year and budget year. The adjustments are a result of recent benefit claim levels and of the October 2005 forecast of future claims. The Department will submit a revised forecast for benefit expenditures as part of the May Revision.

- **Unemployment Insurance (UI):** Benefits are proposed to decrease by \$458.4 million in 2005-06 and decrease by \$507.7 million in 2006-07 (both relative to the 2005 Budget Act base). Additionally, operations expenditures are proposed to decrease by 142.6 personnel years and \$10.2 million in 2005-06 and decrease 122.3 personnel years and \$9.3 million in 2006-07.
- **Disability Insurance (DI) Program:** Benefits are proposed to increase by \$185.6 million in 2005-06 and decrease by \$79.7 million in 2006-07. Additionally, operations expenditures are proposed to decrease by 66.7 personnel years and \$4.3 million in 2005-06 and decrease 23.9 personnel years and \$1.5 million in 2006-07.
- **School Employees Fund Program:** Benefits are proposed to decrease by \$35 million in 2005-06 and decrease by \$41.4 million in 2006-07. No staffing changes are requested in either year.
- **Workforce Investment Act (WIA) Program:** WIA expenditures are proposed to increase by \$17.8 million in 2005-06 and remain unchanged in 2006-07.

**Detail / Background:** In April of 2004, the Unemployment Insurance (UI) Fund exhausted its fund balance and a short-term federal loan was obtained. The loan was repaid within a few months and no interest was charged. The current benefit forecast suggests no loans will be required in 2005-06 or 2006-07. In the *Analysis of the 2004-05 Budget Bill*, the Legislative Analyst's Office suggested there is a long-term solvency problem for the UI Fund absent corrective action. The Administration has not submitted a proposal to deal with long-term UI Fund solvency. While improved economic conditions have resulted in sufficient fund balances for the short run, the fund will likely become insolvent when unemployment rises during the next recession.

#### Questions:

1. EDD, please describe changes in economic conditions and benefit claims that have occurred since the October forecast. Additionally, describe the outlook for future claims levels and the UI Fund balance.
2. LAO, please comment on this issue.

**Recommendation:** Informational only – no action required.

**Issue 2: Augmentation of State Funds to Replace Federal Funds  
(BCPs #3, 4, & 5 )**

**Description:** The Administration requests an augmentation of \$6.9 million (Employment Development Department Contingent Fund) to maintain current staffing and expenditures in the face of cuts in federal support.

**The Governor's Letter to Congress:** In a letter dated March 17, 2006, the Governor wrote to Congressman Ralph Regula, Chairman, Subcommittee on Labor, Health and Human Services Education and Related Agencies, Committee on Appropriations, with the following request for Labor funding:

*Workforce Investment Act (WIA) Programs – Since the initial appropriation for the Workforce Investment Act (WIA) in 2000, the amount allocated by Congress has decreased in each of the last six program years. The decrease in California for WIA's three funding streams has been \$196.1 million, over 31 percent. Appropriations for the Wagner-Peyser Act have also decreased in the last five years. The total decrease for California's Job Services program equates to nearly 9 percent. These constant reductions of federal appropriations significantly impair California's ability to provide employment and training services at the level necessary to meet the needs of California's changing and expanding workforce and economy. Maintaining funding for federal WIA programs at the current level is a priority for California.*

**Detail / Background:** The state funding augmentations are requested in the following BCPs:

- **Reemployment Services for Unemployment Insurance Claimants (BCP #3):** The Administration requests \$2.8 million (one-time) to maintain 36 existing staff in the One-Stop Career Centers to provide in-person services to UI claimants. This BCP requests funds to replace the federal Wagner-Peyser Reemployment Services Grant that expires in June 2006. One-Stop Career Centers provide in-person services including work search review, employment assessment, and assistance with the EDD's Internet job search website, CalJOBS, to post resumes and receive job referrals.
- **Veterans Program Supplemental Funding (BCP #4):** The Administration requests \$1.5 million (three-year limited-term) to restore 19 positions in the Veterans Employment and Training Services (VETS) program. This BCP indicates that reductions in federal grants and higher staff benefit costs necessitated an Administrative elimination of 19 positions in 2005-06. EDD indicates that this restoration is necessary to preserve the level of employment services provided to over 100,000 veterans annually.
- **Unemployment Insurance Identification (ID) Alert Process (BCP #5):** The Administration requests \$2.6 million to maintain 38 positions for identity verification activities in the Unemployment Insurance (UI) Program. This BCP indicates that, effective 2005, the federal government ceased funding for identity verification activities on claimants subsequently deemed eligible. EDD indicates that this BCP funding is necessary to preserve the quality of the ID verification process, which protects the integrity of the UI Trust Fund, protects employer reserve accounts, and detects UI fraud.

**LAO Recommendation:** In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends the Legislature reject the request for Veterans Program Supplemental Funding (BCP #4). The LAO indicates that the EDD has not provided sufficient justification for the higher staffing level, and additionally is requesting funding at the top salary step instead of the mid-step which is standard – a cost difference of \$300,000. Additionally, the funding source (EDD Contingent Fund) is fungible to the General Fund and the usual practice is to transfer any unspent fund balances to the General Fund. As such, the LAO indicates rejecting this proposal would benefit the General Fund by \$1.5 million. The LAO indicates that another option is to fund this cost with Workforce Investment Act (WIA) funds.

Additionally, the LAO recommends adoption of the following placeholder trailer-bill language:

*UI Code Sec. 325.5*

*It is the intent of the Legislature that state-supported Veterans Employment Training services (VETs) meet the same performance standards as those required for federal Workforce Investment Act services for veterans. Following any fiscal year in which state funds support the VETs program, the Employment Development Department shall report annually to the Legislature on the following performance measures. This report shall be provided on or before November 1.*

- (1) Number of Veterans receiving individualized, case managed services*
- (2) Rate of Veterans who receive individualized, case managed services entering employment*
- (3) Retention rate for Veterans who enter employment*
- (4) Earnings change/earnings replacement within six months for Veterans entering employment*

**Questions:**

1. EDD, please describe, in general, the cuts in federal funding over the past six years and how that has affected EDD programs. Please explain briefly, for each of the BCPs, why the Administration feels it is necessary to backfill the federal funds with State funds.
2. LAO, please summarize your recommendations for these requests.

**Recommendation:** Approve the three BCP requests listed in this issue, but reduce the Veterans' Program funding (BCP #4) by \$300,000, such that the positions are budgeted at mid-step instead of top-step. Additionally, adopt the LAO's placeholder trailer-bill language.



**Issue 3: Automated Collection Enhancement System IT Project  
(BCP #2 and April Finance Letter #3)**

**Description:** The Administration requests 2006-07 funding of \$2.9 million (\$2.5 million General Fund) and 15 limited-term positions for “Stage 1” of the Automated Collection Enhancement System (ACES) information technology project. Stage 1 will involve project planning and procurement. Future BCPs will request expenditure authority to implement the project in 2007-08 and beyond. EDD indicates that this is a seven-year project with a total cost in the range of \$93 million. However, EDD also estimates this system will enhance the collection of penalties and back-wages and generate a total of \$583 million in additional revenue over a ten-year period (and about \$70 million ongoing). Approximately \$53 million of the \$70 million in ongoing revenue will benefit the General Fund. The Finance Letter revises the 2006-07 request down from \$3.1 million in the BCP because of project schedule changes.

**Detail / Background:** ACES is a collection system modeled after the systems currently used by the Franchise Tax Board and the Board of Equalization. The ten-year \$583 million revenue estimate noted above is based on the success of projects of a similar nature implemented by other tax and revenue organizations, both within and outside California.

EDD proposes a “benefits-based procurement” such that the vendor will be paid on a percentage of additional revenue generated by the new collection system, with a maximum dollar cap of \$46 million. The remaining \$48 million in project costs represent State costs in the areas of personal computers; software licenses; telecommunications; data center; training; oversight consulting; and EDD staff costs.

**Questions:**

1. EDD, please explain the revenue benefit, both General Fund and special fund, associated with this request?
2. LAO, please comment on this issue.

**Recommendation:** Approve this request.

**Issue 4: Disability Insurance Automation IT Project (BCP #7)**

**Description:** The Administration requests an augmentation of \$1.8 million (special funds) and 6.7 positions to fund the first year of a four-year information technology project that is estimated to cost a total of \$28.9 million. The Administration proposes to submit annual budget change proposals for project funding. The Administration indicates the system would provide greater access to services for claimants, medical providers, and employers.

**Detail / Background:** The Disability Insurance Automation Project – Phase 3 (DIAP3) would replace and improve functionality currently provided from key-data-entry personnel and two legacy IT systems.

The BCP notes the following problems with the existing system:

- Time consuming and labor/paper intensive processing is costly for the State and recipients.
- Ineffective safeguards for sensitive federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) – covered information.
- No Internet access to allow claimants to file more promptly.

The BCP notes the following benefits with the new system:

- Maintains HIPAA “chain of trust” for medical providers who are required to be 100 percent compliant with HIPAA.
- Provides enhancements to response times and self-service options.
- Reduces approximately 67.7 positions (measured in personnel years) by 2009-10.
- Reduces fraud and abuse through the implementation of HIPAA Administration Simplification Guidelines.

With the position reductions and other efficiencies, the Feasibility Study Report (FSR) indicates a net cumulative cost that falls to \$9.5 million by 2011-12. With annual net savings of almost \$9.6 million in 2011-12, the FSR implies this project should pay for itself by around 2013-14.

**Questions:**

1. EDD, please present this request.
2. LAO, please comment on this issue.

**Recommendation:** Approve this request.

**Issue 5: Nursing Clinical Simulators (April Finance Letter #2)**

**Description:** The Administration requests a one-time augmentation of \$4.5 million General Fund to establish six clinical simulation laboratories (at \$750,000 each) that would be used to provide clinical training to nursing students.

**Detail / Background:** In the May Revision of the 2005-06 Budget, the Governor proposed a Nursing Education Initiative, which among other expenditures, proposed \$2.5 million (General Fund) for 9 regional clinical simulator grants of up to \$275,000 each. The Legislature shifted a portion of the simulator funding to other nursing programs and the final Budget Act included \$750,000 for 3 clinical simulator grants. The Department indicates the cost of a simulator was underestimated in last year's request.

**Staff Comment:** During last year's discussion, many different options were identified to encourage schools to provide more nursing slots and encourage individuals to pursue careers in nursing. Last year's final package included: funding to forgive student loans for those who obtain a Master's Degree or Doctorate and teach in a nursing program; employer-based training of nursing assistants and aids who are considering becoming Registered Nurses; and funding for the California State University System and the California Community College System to increase nursing slots.

Staff understands that the three clinical simulator grants approved last year have not yet been awarded.

**Questions:**

1. EDD, what is the status of the three clinical simulators funding in the 2005 Budget Act?
2. LAO, please comment on this issue.

**Recommendation:** Deny the request. Last year's discussion suggested that clinical simulators were not the highest priority for nursing-education dollars and, additionally, it may be premature to fund more simulators before those funded last year can be evaluated.

<b>Issue 6: Employment Training Panel Funding (BCP #1)</b>
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**Description:** The Administration requests an augmentation of \$5.0 million (Employment Training Fund) for the Employment Training Panel (ETP) program and a corresponding reduction of \$5.0 million (Employment Training Fund) for the Department of Social Services' CalWORKs program. Staff understands that CalWORKs has reviewed a corresponding General Fund augmentation so that CalWORKs is held harmless with this change. However, recent federal legislation may require additional funding for CalWORKs to avoid significant federal penalties.

**Detail / Background:** The Employment Training Panel was created in 1982 to improve the skills of California's workforce and retain businesses in the state. The ETP is funded through the Employment Training Tax, a special tax which is levied on employers who participate in the Unemployment Insurance Program. Historically, revenue has annually averaged \$70 million to \$100 million. The ETP program primarily funds "employer-focused" job training – more than 90 percent of ETP supports training of incumbent workers. The ETP indicates that every \$1 million in ETP training funding, supports more than 85 business and 800 workers, primarily in the manufacturing and high-tech sectors. The following table shows how Employment Training Fund money has been distributed between ETP and CalWORKs in recent years (\$ in millions).

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07*
ETP Appropriation	\$75.8	\$76.0	\$76.0	\$18.2	\$44.0	\$37.8	\$40.3
Percent to ETP	65%	51%	65%	22%	48%	44%	50%
CalWORKS Appropriation	\$30.0	\$61.7	\$30.0	\$56.4	\$40.0	\$37.9	\$32.9
Percent to CalWORKS	26%	41%	26%	68%	43%	44%	40.5%

\* Proposed

**Staff Comment:** The Department of Social Services and the CalWORKs program will be heard by the Subcommittee on May 4. As a result of the federal Deficit Reduction Act of 2005, the state will face significant federal penalties if the CalWORKs work participation rate does not increase. To meet the higher work participation rate, additional funding may be needed above the Governor's Budget level for CalWORKs employment training. Potential funding for these services include the Employment Training Fund. There may also be changes to the CalWORKs budget with the May Revision of the Governor's Budget.

**Questions:**

1. LAO, please comment on this issue.

**Recommendation:** Keep issue open for the May Revision hearing.

## 7350 Department of Industrial Relations

The objective of the Department of Industrial Relations (DIR) is to protect the workforce in California; improve working conditions; and advance opportunities for profitable employment. The department enforces workers' compensation insurance laws and adjudicates workers' compensation insurance claims; works to prevent industrial injuries and deaths; promulgates and enforces laws relating to wages, hours, and conditions of employment; promotes apprenticeship and other on-the-job training; assists in negotiations with parties in dispute when a work stoppage is threatened; and analyzes and disseminates statistics which measure the condition of labor in the state.

The January Governor's Budget proposed \$346.8 million (\$62.6 million General Fund), an increase of \$2.7 million (0.8 percent) from the current-year budget.

<b>Expenditures by Program</b> (dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Self-Insurance Plans	\$3,578	\$3,591	\$13	0.4
Mediation/Conciliation	2,214	2,237	23	1.0
Workers' Compensation	154,398	157,726	3,328	2.2
Commission on Health and Safety and Workers' Compensation	3,133	3,068	-65	-2.1
Division of Occupational Safety and Health	85,423	87,466	2,043	2.4
Division of Labor Standards Enforcement	46,322	44,854	-1,468	-3.2
Division of Apprenticeship Standards	9,973	10,156	183	1.8
Division of Labor Statistics and Research	3,853	3,884	31	0.8
Claims, Wages, and Contingencies	35,158	33,832	-1,326	-3.8
Administration	26,729	26,993	264	1.0
Distributed Administration	(26,729)	(26,993)	-264	0.0
<b>Total</b>	<b>\$344,052</b>	<b>\$346,814</b>	<b>\$2,762</b>	<b>0.8</b>

(see next page for issues)

**Vote Only Issue:****Issue 1: IT Project Reappropriation (April Finance Letter #1)**

**Description:** The Administration requests a reappropriation of \$8.8 million for the Electronic Adjudication Management System (EAMS) project to accommodate unforeseen delays that occurred in the contract solicitation process. This project was approved by the Legislature with the 2004 Budget Act and has a total cost of \$24 million (Workers Compensation Administration Revolving Fund). The EAMS replaces the current on-line, Vocational Rehabilitation and Disability Evaluation Unit system with a commercial-off-the-shelf case management, calendaring, document management, and cashiering solution. The Department expects annual savings of 17.3 positions (measured in personnel years) and \$3.3 million, which will be redirected to cover baseline operations.

**Recommendation:** Approve this request.

**Issue 2: Division of Labor Standards Enforcement Collections Unit (BCP #5)**

**Description:** The Administration requests to augment the Department's budget by \$561,000 (special fund) and five positions to establish a collections unit within the Division of Labor Standards Enforcement to actively pursue the wages and penalties it determines are due as a result of judgments against employers who have violated labor laws. The Administration indicates this new unit would generate enough funding to be self-sufficient. Additionally, approximately \$13 million in wages would be collected to the benefit of workers and \$2.5 million in penalties would be collected. The General Fund benefit would be approximately \$2.0 million to \$2.5 million.

**Recommendation:** Approve this request.

**Issue 3: Pressure Vessel Safety Program (BCP #4)**

**Description:** The Administration requests an augmentation of \$1 million (special fund) and eight positions to address on-going workload in the Pressure Vessels Unit. These positions would address workload associated with Labor Code Section 7680 that requires that tanks and boilers have permits to operate. The BCP indicates 60,000 of 205,000 pressure vessels are over 6 months overdue for permit inspection and that without new staffing the number overdue will increase by 18,546 annually. Revenue generated from inspection fees would fund these positions.

**Recommendation:** Approve this request.

**Issue 4: Facility Costs (BCP #2)**

**Description:** The Administration requests an augmentation of two positions and \$2.2 million (special fund) for unfunded facilities cost increases due to increased baseline staffing. The Department indicates it maintains 24 district offices throughout the state and 8 satellite offices. The BCP indicates that facility funding was increased with workers' compensation reform legislation (for example SB 899 allocated \$817,000 to facilities); however, the funding was generalized and did not recognize special facilities needs such as additional hearing rooms.

**Recommendation:** Approve this request.

**Discussion / Vote Issues:****Issue 1: Workers' Compensation Reform Issues (BCPs #3, 6, 7, & 9)**

**Description:** The Administration requests four budget changes that relate to recently-enacted workers' compensation legislation:

- **Position Upgrade (BCP #3).** The Governor requests \$971,000 to fund upgrades for positions in the Workers' Compensation Unit. The Department indicates that the complexity of the workload has increased with recent legislation and this merits the upgrade. Additionally, the Department hopes the upgrade will assist in retaining experienced incumbent employees and reduce vacancy rates. Proposed provisional language would tie expenditure of these funds to approval of the upgrade by the Department of Personnel Administration and/or the State Personnel Board.
- **Return-to-Work Program Staffing and Funding (BCP #6).** The Governor requests \$577,000 and one position to fund payments to small employers who comply with the requirements of the Return-to-Work Program. The program was placed in statute by AB 749 (Chapter 6, Statutes of 2002) and modified by SB 899 (Chapter 34, Statutes of 2004), with the purpose of encouraging early and sustained return to work by injured employees. The requested position would review requests for reimbursement from employers, prioritize the requests, and prepare claim schedules or requests for checks from the office revolving funds for payment. While SB 899 was chaptered in 2004, the regulatory process has delayed the implementation of this program.
- **Extension of Limited-term Legal Positions (BCP #7).** The Governor requests a two-year extension of \$297,000 and four legal positions to support ongoing regulatory activities related to workers' compensation reform. The Administration indicates this workload is associated with SB 899 (Chapter 34, Statutes of 2004). The BCP indicates that 1.5 of the 5.5 originally approved legal positions would be allowed to expire; however, the 4.0 positions are requested to continue for ongoing regulatory work, Public Records Act requests, ongoing legal advice and counsel to program managers and staff, audit unit administrative hearings, and litigation.
- **Repeal of \$100 Initial Lien Filing Fee (BCP #9).** The Governor requests the repeal of Labor Code Section 4903.05 (added by SB 228, Chapter 639, Statutes of 2003) that requires medical-legal providers to pay a \$100 filing fee when filing an initial lien on a claim in order to assert their claim for payment for services provided. The Administration indicates this requirement "has created a workload that does not positively impact the settling of claims and instead has created a process that is inefficient for the division and the district offices." Additionally, the lien fee may be a barrier for legitimate claims by small business such as interpreters, document copy services, and transportation companies. The Administration also proposes to add language to establish a 60-day wait period for the filing of liens to discourage the practice of filing liens before allowing a reasonable period for payment. If the request is denied, the BCP indicates an additional \$294,000 and 5 new positions would be required to address this workload. Staff has conferred with policy staff, and no concerns were noted with this proposal.



**Detail/Background:** To summarize the status of workers' compensation reform efforts, the Department provided a document titled "Governor Celebrates Workers' Compensation Success on Reform's Second Anniversary." April 19, 2006, marked the second anniversary of the enactment of SB 899. The document indicates that workers' compensation charged rates were \$6.46 for every \$100 in payroll in July of 2003, but by September of 2005 those rates were down to \$4.42 per \$100 in payroll – an actual reduction of 31.6 percent. The document notes that the Administration has promulgated "nearly all" the regulations related to SB 899; however, the following regulatory packages are still in progress:

- Return to work regulations
- Penalties for utilization review violations and Labor Code section 5814.6 penalties Medical treatment guidelines.
- Revised qualified medical evaluator regulations
- Repackaged drugs
- Official medical fee schedule

**Questions:**

1. DIR, please briefly present these proposals?
2. LAO, please comment.

**Recommendation:** Approve these requests, including trailer-bill language associated with Initial Lien Filing Fees.

**Issue 2: Security at DIR Facilities (BCP #8)**

**Description:** The Governor requests \$280,000 in 2006-07, \$298,000 in 2007-08, and \$238,000 in 2008-09 and ongoing (all Workers' Compensation Administration Revolving Fund) to add Plexiglas to public counters at five offices and to provide additional California Highway Patrol (CHP) security coverage at two offices. The Department would also purchase employee badges for all its personnel.

**Detail/Background:** DIR maintains 24 district offices throughout the state and 8 satellite offices. The Department received an augmentation in 2001-02 to add a full-time CHP presence at three offices that were described as particularly vulnerable due to their layout: Anaheim, Sacramento, and Santa Monica. This proposal would add a full-time CHP presence in the Van Nuys and Los Angeles Offices. Each of these two offices has had a recent incidence of violence. The remaining 19 offices would continue to be without a full-time CHP presence, but the Department does spend about \$27,000 per year on additional CHP coverage when a known risk will be present at a court hearing. The BCP indicates that this is the Division of Workers' Compensation's first effort to standardize security measures among district offices. The Division will continue to monitor security needs and determine whether specific offices have specialized needs that should be addressed in a subsequent proposal.

**Senate Subcommittee #4 Hearings on Building Security:** Senate Budget Subcommittee #4 discussed building security with the Department of General Services at a hearing on April 6 and with the CHP at a hearing on April 20. The State has no standard security requirement for its buildings; however, the CHP provides a security assessment and recommendation if requested. The CHP Commissioner indicated that security needs vary by building, depending on where the building is located, the nature of the business conducted in the building, and the physical layout of the facility. The Commissioner indicated that every facility should be individually assessed as opposed to a one-size-fits-all security requirement. Security is not limited to barriers and CHP officers, but can also include the alignment of work areas to entry points and private security.

**Staff Comment:** DIR indicates they did not request a CHP assessment of their security needs in preparing this request. The Subcommittee may want to deny this BCP and request that the Department return with the request next year after a written CHP security assessment has been obtained. To the degree DIR feels this security is essential for 2006-07, the Department can redirect existing budget resources to fund these costs. A CHP assessment may recommend other security options in addition to those requested, or recommend a less-costly security option such as private security officers.

**Questions:**

- DIR: Explain who assessed the security needs of the facilities included in this request.
- LAO: Please comment.

**Staff Recommendation:** Deny the request – consider the request again next year if the request is resubmitted and a written CHP security assessment has been performed.

**Issue 3: Garment Fund Unpaid Wage Claims (Staff Issue)**

**Description:** The Governor's budget bill appropriates \$200,000 from the Garment Manufacturers Special Account (Item 7350-001-0481) for the payment of wage claims to employees when the damage exceeds the limits of the employer's bond. Revenue for this special fund account comes from a portion of each garment manufacturer's annual registration fee. Annual revenues into the account are in the range of \$500,000. The Subcommittee may want to consider raising the appropriation to the level of annual revenue.

**Background / Detail:** The 2005 Budget Act appropriated \$200,000 for the payment of garment worker wage claims. In most years, claims have fallen below \$200,000. In a letter dated November 7, 2005, the Administration requested a supplemental appropriation of \$988,000 so that a higher-than-anticipated level of claims could be paid. Concern has been raised about why the payment of wage claims is being artificially delayed due to a budget appropriation that is less than half of annual revenues. The Administration proposes to address this concern by adding provision 1 to Item 7350-001-0481:

1. *Upon approval by the Department of Finance and notification to the chairpersons for the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, the Department of Industrial Relations may augment this item for the payment of valid claims against and up to the fund balance.*

The proposed language goes a long way in addressing the concerns of delayed payment; however, the Subcommittee may additionally want to boost the appropriation to \$500,000. This would tie approved expenditures to expected revenue and prevent any delay caused by Department of Finance approval and a 30-day legislative notification period.

**Staff Comment:** Some advocates have suggested statutory language to make the Garment Manufacturers Special Account continuously appropriated. An appropriation increase to \$500,000 and the new budget bill language should address the problem of delayed payment that is occurring in 2005-06.

**Questions:**

1. DIR, please present this request.
2. LAO, please comment on this issue.

**Recommendation:** Approve the Administration's provisional language, but also increase the level of the appropriation from \$200,000 to \$500,000.

**Issue 4: Transfer of Workplace Health and Safety Revolving Fund  
(Administration Trailer Bill Language Request)**

**Description:** The Administration requests trailer bill language to transfer the \$507,000 fund balance of the dormant Workplace Health and Safety Revolving Fund to the Workers' Compensation Administration Revolving Fund.

**Background:** In 1989, the Legislature created the Workplace Health and Safety Revolving Fund and directed the Department to deposit into the fund civil and administrative penalties against workers' compensation insurers, self-insured employers, and others for failure to comply with the workers' compensation system. Assembly Bill 749 (Chapter 6, Statutes of 2002, Calderon), redirects the civil and administrative penalties previously deposited in the Workplace Health and Safety Revolving Fund to the larger Workers' Compensation Administration Revolving Fund, which became the primary source of funds for the Division of Workers' Compensation. Post AB 749, the Workplace Health and Safety Revolving Fund is no longer an active fund; however, the current account balance is \$507,000.

**LAO Recommendation:** In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the \$507,000 be transferred to the General Fund instead of the Workers' Compensation Administration Revolving Fund. The LAO notes that the Workers' Compensation Administration Revolving Fund will maintain a \$65 million fund balance at the end of 2006-07, and the fund balance of the Workplace Health and Safety Revolving Fund was accumulated during the years in which the General Fund provided the bulk of Division of Workers' Compensation funding.

**Staff Recommendation:** Adopt the LAO recommendation – approve trailer bill language to transfer the \$507,000 balance in the Workplace Health and Safety Revolving Fund to the General Fund.

**Issue 5: Minimum Wage Enforcement and Staffing (Staff Issue)**

**Description:** Last year, Senate Budget Subcommittee #5 augmented the DIR budget by \$3.0 million (General Fund) and 32 positions to increase enforcement in the area of minimum wage and overtime law compliance in construction, agriculture, garment manufacturing, janitorial and restaurant employment. Budget bill language was also adopted specifying the expenditure of this augmentation. The Governor vetoed this augmentation citing the 16 positions added for DIR as part of the Economic and Employment Enforcement Coalition initiative, and the concern of General Fund costs.

**Detail/Background:** According to information provided last year by DIR, employment grew by 44 percent from 1983 to 2003, while Division of Labor Standards Enforcement (DLSE) staff fell from 434 to 403 over the same period. The Governor's Budget proposes 406 DLSE positions for 2006-07.

**Questions:**

1. LAO: Please present this issue.

**Staff Recommendation:** Keep this issue open for possible consideration at the May Revision hearing.